IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

Crl.MC.No. 1667 of 2007()

CC.1481/2003 of J.F.M.C.KOTHAMANGALAM.

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PETITIONER: ACCUSED

M.C.AYYAPPAN, AGED 57 YEARS,
MUNCHACKAL HOUSE, THRIKKARIYOOR, AIROOPADAM,
KOTHAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SHINI JOSEPH, VALIYAPARAMBIL HOUSE,
KOZHIPPILLY, KOTHAMANGALAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 24/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1667 of 2007

Dated this the 24th day of May 2007

O R D E R

The petitioner was an accused in a prosecution under Section 138 of the Negotiable Instruments Act. The said case was registered as C.C.No.1481/03 before the Judicial First Class Magistrate Court, Kothamangalam. The petitioner did not appear before the learned Magistrate and the learned Magistrate, as per order dated 12/9/2006 has initiated proceedings against the sureties. Proceedings have been initiated against the accused under Section 229A I.P.C.

2. The parties have settled their disputes. The case was withdrawn. It is submitted at the Bar that C.C.No.1481/03 has come to an end. That case is not pending. But proceedings against the sureties - evidently under Section 449 Cr.P.C and against the petitioner under Section 229A I.P.C are continuing. The petitioner now wants to surrender before the learned Magistrate. He wants to plead guilty in the charge under Section 229A I.P.C against him. But he apprehends that when he appears he may be remanded to custody without recording

his plea on the date of surrender. He, in these circumstances, has come to this court with the present petition under Section 482 Cr.P.C for appropriate directions in the matter.

3. If C.C.No.1481/03 has already been withdrawn as contended by the petitioner, the only further proceedings remaining against him is the one under the amended Section 229A I.P.C. I am in agreement with the learned counsel for the petitioner that if the petitioner wants to appear and plead guilty, the learned Magistrate must proceed to pass appropriate orders without unnecessarily compelling him to languish in prison before the case is taken up for consideration. Appropriate directions can, in these circumstances, be issued.

4. In the result, this petition is allowed in part. When the petitioner surrenders before the learned Magistrate in Crl.M.C.No.41/06 against the petitioner initiated under Section 229A I.P.C, the learned Magistrate shall proceed to dispose of the same expeditiously - on the date of surrender itself, if he chooses to plead guilty.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF APRIL 2007